

**Report to Cllr N Jupp, Cabinet Member for Education and Skills**

**November 2020**

**Allocation of Section 106 Funding towards Education Infrastructure Capital Projects and Design Fees**

**Report by Director of Property and Assets and Director of Education and Skills**

**Electoral divisions: All**

---

**Summary**

The increase of housing increases the number of children of school age requiring a place in West Sussex Schools and can impact on the suitability of existing accommodation to enable the curriculum to be delivered.

Following a detailed review of Section 106 funds received for Education, an allocation is proposed to fund a number of small to medium sized capital projects at a range of schools across the County. The funds highlighted in Appendix A can only be spent on education infrastructure. As the funds have been received, the children that live in these developments are now attending the schools highlighted. Whilst the funds still have a number of years to be spent before they would have to be returned to the developers, it is proposed that the funds are spent now to provide for the pupils that live in these developments and to achieve best value for the funds available.

**Recommendation**

That the Cabinet Member for Education and Skills approves:

- (1) The allocation of £6.268m from Section 106 funds to deliver small to medium education infrastructure projects at named Schools in accordance with the requirements of the individual Section 106 Agreements and as outlined in Appendix A;
- (2) The delegation of authority to undertake a procurement exercise for all projects outlined in Appendix A and to enter into contracts for delivery of the projects to the Director of Property and Assets, and
- (3) The addition of 3 projects to the current year Capital Programme and the allocation of £291k from Section 106 funds for design fees to progress these projects as described in paragraph 2.2. Each of these schools are anticipated to require individual budgets in excess of £0.5m.

---

## **Proposal**

### **1. Background and Context**

- 1.1 The County Council's Future West Sussex Plan sets out the corporate priorities and a commitment to give children the best start in life; this includes ensuring that young people are ready for school and ready for work.
- 1.2 Developer contributions towards education provision are secured by means of conditions attached to planning permissions under Section 106 of The Town and Country Planning Act 1990 or the Community Infrastructure Levy (CIL). Contributions are sought by the Education and Skills School Organisation and Development Team and collected either direct by WSCC or, in some cases, by the District or Borough Council on behalf of the County Council. Once received, funds are retained in an interest-bearing account awaiting allocation to projects. The contributions are required to mitigate the impacts of development and/or make the development acceptable in planning terms.
- 1.3 Once secured, the funding usually has a 10 year 'life' in which funds should be spent, in accordance with the criteria in the Section 106 agreement. If held by the District or Borough, when required, WSCC seek the transfer of funds in order to take a project forward through WSCC's capital programme. District or Borough Councils will also seek clarification on the project to be delivered before transferring the contribution.
- 1.4 Some funds secured must be spent on the creation of additional school places by, for example, expanding existing schools; some on education infrastructure generally and others on the provision of additional furniture, fittings and equipment.

### **2. Proposal details**

- 2.1. The proposal is to establish an allocation of £6.268m within the Capital Programme, funded from received Section 106 funds. This will enable the design and delivery of a number of small to medium education infrastructure projects across a number of named Schools, including Academies and Voluntary Aided Schools, in line with the criteria within individual Section 106 Agreements as outlined in Appendix A.
- 2.2. It is further proposed to add an allocation of £0.291m within the Capital Programme, funded from received Section 106 funds. This will enable design work to be undertaken for the three named projects below. These have not been included in Appendix A as each project, individually, is expected to exceed £0.5m and will therefore be subject to a separate Key Decision in relation to full budget and procurement:
  - Replacement all weather pitch at Tanbridge House School, Horsham
  - New all weather pitch at The Forest School, Horsham
  - Replacement modular teaching accommodation at Slinfold CE Primary School

### **3. Other options considered (and reasons for not proposing)**

- 3.1. No other options have been considered as the Section 106 funds can only be spent on education infrastructure at named schools. The specific projects to be delivered at the named school must meet the criteria set out within the Section 106 Agreement and will meet the highest priority for the individual school's needs.

### **4. Consultation, engagement and advice**

- 4.1. The Capital and Assets Board (the Council's internal governance process for capital projects) has considered and supports the proposal and comments from the Board have been incorporated into the final proposal and recommendations.
- 4.2. Subject to Cabinet Member approval being given, individual schools that will benefit from the small to medium education infrastructure projects will be contacted to notify them of the funds received and available. Projects will be briefed and designed in full consultation with the Headteacher and Governing Bodies.
- 4.3. Where applicable, planning permission will be sought for the proposed projects.
- 4.4. The Cabinet Member for Finance and Resources has been consulted on this proposal.

### **5. Project Programme**

- 5.1. Each project will have an individual programme setting key milestones for delivery. These milestones will be monitored as part of the County Council's project management processes including monthly highlight reports.

### **6. Finance**

- 6.1. The total Education Section 106 contributions currently available in County Council accounts is £48.409 as at 20 October 2020.
- 6.2. The capital budget will be amended to reflect the proposed programme in the next Total Performance Monitor. The additional sum is a total of individual Section 106 Agreements and associated funds received which are to be spent on the education infrastructure projects at named schools. The table below shows the effect on the Capital Programme.

	Current Year 2020/21 £m	Year 2 2021/22 £m	Year 3 2022/23 £m	Total £m
Current Budget	0.000	0.000	0.000	0.000
Schools Infrastructure improvements funded from S106 contributions	2.200	4.359	0.000	6.559
Increase in the overall capital programme expenditure	2.200	4.359	0.000	6.559

- 6.3. The table below shows the total Section 106 balance available for Education projects in the County Council's accounts together with the amount to be drawn down for the education capital infrastructure projects.

	<b>£m</b>
Section 106 held at WSCC as at 20 October 2020	48.409
Add amounts being collected from the districts (detailed in 5.7)	0.203
S106 Infrastructure Improvement Allocation	-6.559
<b>S106 at WSCC for Education remaining</b>	<b>42.053</b>

- 6.4. Although the works will be managed as a programme; each individual allocation must be spent on a specific project and therefore underspends on one project cannot be used to support an overspend on another. If individual budgets prove insufficient; projects will be value engineered and/or additional funds may be sought from S106 or Basic Need in line with the capital governance arrangements.
- 6.5. Each individual allocation is below £500,000 but as a programme exceeds the £500,000 threshold therefore authority to approve the allocation is required via a Key Decision by the Cabinet Member for Education and Skills.
- 6.6. An allocation of £0.291m is requested to establish new projects funded by Section 106 within the Capital Programme. The £291k will fund design fees for three named projects at Tanbridge House School, The Forest School and Slinfold CE primary School as outlined in paragraph 2.2.
- 6.7. The overall figure of Section 106 to be added to the Capital Programme can be split between £203k held at the District and Borough Councils (£139k held at Horsham DC; £26k held at Worthing BC and £38k held at Lewes) and £6.355m held by the county. No project will commence unless all of the Section 106 contributions are banked at the County Council. Overall there are 30 projects with an average value of £218,600.
- 6.8. The funds available in the County Council's accounts will increase upon receipt of funds currently held at District and Borough Councils.

## **7. Risk implications and mitigations**

- 7.1. All projects taken forward must meet the criteria for capital spend and must meet the criteria laid out in the individual Section 106 Agreement.
- 7.2. A summary of the key risks in relation to project delivery are highlighted below.

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
Budget overspends	Each individual Section 106 amount must meet the criteria laid out in the associated Section 106 Agreement. Overspends on individual projects cannot simply be met by using S106 funds from another agreement. Although this is to be managed as a programme, careful budget management will be necessary to ensure

Risk	Mitigating Action (in place or planned)
	projects do not overspend. If additional funds are required to deliver the project briefed, additional funds will need to be identified from basic need; S106 or school contributions or the project scope reduced.
Volume of work exceeds resources available	It has been agreed that these projects should be delivered through the MDC to ensure consistency of delivery; value for money and that all necessary consents/requirements are met. The Capital Delivery Team will propose a programme structure to ensure delivery of projects within resources available.

## 8. Policy alignment and compliance

### Legal Implications

- 8.1. The individual schools building contract costs will be under the OJEU threshold of £4,733,252 for works contracts and therefore the contractor will be procured in full compliance with the Public Contracts Regulations 2015 (as well as the Council's Standing Orders on Contracts and Procurements).
- 8.2. The current Covid-19 pandemic does need to be considered and any impacts this may have economically and practically with the ability of contractors to effectively source materials. This may delay individual projects and therefore the spending of the allocation which is the subject of this key decision report.

### Equality Duty and Human Rights Assessment

- 8.3. Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to (1) eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act, (2) advance equality of opportunity and (3) foster good relations between persons who share a protected characteristic and persons who do not share it. This proposal will provide investment in school buildings for pupils at specific schools including those with protected characteristics.

### Crime and Disorder

- 8.4. None

### Social Value and Sustainability Assessment

- 8.5. Sustainability considerations will be imbedded in the capital projects.

**Andrew Edwards**  
**Director of Property and Assets**

**Paul Wagstaff**  
**Director of Education and Skills**

### Contact:

Leigh Hunnikin, Education Capital Programme Manager – 0330 2223051

### Appendices

Appendix A – list of schools and associated Section 106 Agreements for Section 106 funded Education Infrastructure Programme

**Background Papers** None